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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,796	09/18/2001	Ed O. Schlotzhauer	10010804-1	1044

7590 08/11/2005

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
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EXAMINER

WEST, JEFFREY R

ART UNIT PAPER NUMBER

2857

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/955,796		SCHLOTZHAUER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Jeffrey R. West		2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 31-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. The affidavit filed on July 12, 2005, under 37 CFR 1.131 is sufficient to overcome the Schmit et al. reference.

In view of this affidavit, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because they depend from a cancelled claim. For examination in the instant Office Action, it is assumed that claim 31 depends from claim 21 rather than claim 30.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 7-9, 14-29, 31-33, and 36-40 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,401,220 to Grey.

With respect to claim 1, Grey discloses a method for a user of a measurement process to cause a variation in the measurement process (column 2, lines 55-60 and column 11, lines 36-40), the measurement process comprising a sequence of operations controlled by a computer program (column 11, lines 41-56 and column 12, lines 6-15) containing a variation point at which a function call instruction is inserted by a designer of the computer program (column 12, lines 41-53) to pass control to a user-defined variation function (column 14, lines 52-65), said method comprising determining the variation to the measurement process (column 13, lines 50-58), providing a user-generated process modification software module comprising the user-defined variation function for causing the variation (column 12, lines 41-53 and column 14, lines 52-65), and associating the function call instruction with the user-defined variation function prior to execution of the measurement process, wherein the function call instruction passes control to the user-defined variation function when the variation point in the computer program is reached (column 13, lines 50-58 and column 14, line 52 to column 15, line 9).

With respect to claims 2-4 and 31-33, Grey discloses that the process modification software module further comprises an interface servicing element that services an interface realized by the measurement process with the interface operating at a binary protocol (column 13, lines 7-15).

With respect to claims 7 and 36, Grey discloses that said interface is determined by the user and is identified and passed into said measurement process (column 13, lines 7-30).

With respect to claims 8 and 37, Grey discloses that said process modification software module is one of a computer program conforming to a software component specification for distributed applications or dynamically linked library (i.e. C, C++, JAVA, Visual Basic) (column 13, lines 53-57 and column 14, lines 66-67).

With respect to claim 9, Grey discloses that the measurement process and the process modification software module are executed in a shared computer memory space (i.e. the test executive software performs the measurement and the measurement modification) (column 11, lines 41-56 and column 58, lines 60-67)

With respect to claims 14-18 and 24-28, Grey discloses that said variation comprises modification of data (column 15, lines 11-14) received from the variation function including one or more numerical parameters (i.e. voltages) (column 30, lines 49-52 and column 46, lines 30-35), selectable alternatives of control parameters (column 19, lines 33-39), alteration of a configuration of the device under test (column 18, lines 62-63), or causing input signals to be supplied to the device under test (column 10, line 62 to column 11, line 6 and column 19, line 64 to column 20, line 5).

With respect to claim 21, Grey discloses a computer readable medium containing program instructions, generated by a program designer, for carrying out the associated method (column 11, lines 41-56).

With respect to claims 22 and 23, Grey discloses passing measurement data to the function call (column 14, lines 37-50).

With respect to claim 29, Grey discloses that the function call instruction invokes an interface (column 12, lines 41-47).

With respect to claims 19, 20, and 38, Grey discloses a plurality of variation points that access the user for the reception of measurement data using a plurality of application programming interfaces wherein the measurement data is provided by a plurality of user-defined variation functions (i.e. the user-defined variation functions are applicable anywhere in the sequence as well as in multiple concurrently executed sequences (column 13, lines 16-25 and 32-44 and column 14, lines 52-65).

With respect to claim 39, since the function calls disclosed by Grey are in the instruction code, operable to control the measurement process at a variation point in the code, and allows corresponding user input to modify the measurement process, it is considered inherent that the designer of the instruction program has anticipated that the user may want to interact with or modify the measurement process because the designer of the code would have eliminated the possibility of user intervention and would not have provided user prompts if such interaction was not desired.

With respect to claim 40, Grey discloses a measurement system comprising a physical interface operable to supply signals to a device under test and receive signals from a device under test (column 10, line 51 to column 11, line 34).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5, 6, 10-13, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grey in view of U.S. Patent Application Publication No. 2002/0026514 to Ellis et al.

As noted above, the invention of Grey teaches many of the features of the claimed invention and while Grey does teach connecting the process-modifying host computer to a plurality of specific test instruments (Figure 1) Grey does not specifically indicate that the measurement and process modification be carried out using two separate computers communicating using a Simple Object Access Protocol or Common Object Request Broker Architecture protocol.

Ellis teaches automated tool management in a multi-protocol environment comprising measuring/polling software located on a server computer system with corresponding processor and memory (0025) and user process control software (0007) located on a separate remote computer (0023), wherein the process control software and the monitoring/polling software communicate over a network using predetermined protocol including Common Object Request Broker Architecture and Simple Object Access Protocol (0007).

It would have been obvious to one having ordinary skill in the art to modify the invention of Grey to include specifying that the measurement and process modification be carried out using two separate computers communicating using a Simple Object Access Protocol or Common Object Request Broker Architecture protocol, as taught by Ellis, because, as suggested by Ellis, the combination would have provided improved analysis and control by allowing input and diagnostics by a larger variety of users through remote access (0005 and 0008).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-29 and 31-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

U.S. Patent Application Publication No. 2003/0046665 to Ilin teaches a reusable software component for textually supplementing, modifying, evaluating, and processing procedural logic for a compiled host program at run-time.

U.S. Patent No. 6,766,514 to Moore teaches a compiler having real-time tuning, I/O scaling and process test capability.

U.S. Patent No. 6,351,843 to Berkley et al. teaches dynamically inserting a function into an application executable at runtime.



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U.S. Patent No. 6,202,043 to Devoino et al. teaches a computer based system for imaging and analyzing a process system and indicating values of specific design changes.

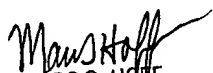
U.S. Patent No. 6,163,879 to Mackey teaches an interface and method for facilitating writing and modifying of lines of programming code.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (703)308-1309. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (703)308-1677. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

jrw  
August 8, 2005

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
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